Justiciable

CASE SUMMARY

Wong Jun Kit v Wong Forklift Hire & Services Sdn Bhd

Federal Court affirms RM1 million award for constructive dismissal after stepmother slashed salary in retaliation for will challenge

⚖️ Industrial Relations Act 1967

Facts

Wong Jun Kit joined his father's forklift business, Wong Forklift Hire & Services Sdn Bhd, in 1998 at the age of 18. He started as a technician and by 2004 was managing the company's Shah Alam branch. There was no written employment contract. After his father passed away, Wong challenged the validity of his will. In October 2018 — the same month he filed suit at the Shah Alam High Court challenging the will of his late father, Wong Kok Wan — his stepmother, Sim Foo Yoke, a director of the company, reduced his salary from approximately RM27,500 a month to RM9,000, and later to RM6,000.

No one at the company consulted Wong before imposing the reduction. In February and March 2019, his wages were not paid at all. His EPF and SOCSO contributions ceased. He was assigned no work. In April 2019, he demanded restoration of his full salary. The company did not comply. He resigned and filed a complaint of constructive dismissal under the Industrial Relations Act 1967.

Legal Issue

Whether the company's reduction of Wong's salary, non-payment of wages, cessation of EPF and SOCSO contributions, and removal of work amounted to a fundamental breach of his employment contract entitling him to treat himself as constructively dismissed; and whether the dismissal was an act of retaliation for his challenge to his late father's will.

Held (Industrial Court, affirmed by High Court, Court of Appeal, and Federal Court)

Industrial Court Chairman D Paramalingam found that the salary reduction was "certainly no coincidence" and constituted "a retaliation by (Sim) against the claimant for having filed the suit." Each of the company's actions — the pay cut, the withheld wages, and the non-payment of EPF and SOCSO contributions — was held to be a fundamental breach of the employment contract. The company's defences of business downturn and unsatisfactory performance were rejected: no evidence of poor performance was ever produced, and the issue was raised for the first time only after Wong had given notice of constructive dismissal.

The court awarded:

- Compensation in lieu of reinstatement: RM550,000
- Back wages: RM660,000
- Less post-dismissal earnings: RM198,000
- **Total award: approximately RM1 million**

The High Court dismissed the company's judicial review application (with RM6,000 in costs). The Court of Appeal affirmed that decision. In July 2026, a three-member Federal Court bench chaired by Justice Rhodzariah Bujang, sitting with Justices Ahmad Terrirudin Salleh and Nazlan Ghazali, refused the company leave to appeal, and ordered the company to pay Wong Jun Kit RM50,000 in costs. The award now stands as final.

Key Reasoning

- The “contract test” for constructive dismissal — established in *Wong Chee Hong v Cathay Organisation* and articulated in *Bayer (M) Sdn Bhd v Anwar Abd Rahim* — requires the employee to prove a breach of contract by the employer, that the breach was sufficiently serious to justify resignation, that the employee left in response to that breach (not for another reason), and that there was no undue delay in resigning. Wong satisfied all four conditions.
- The Industrial Court found that the pay cut, withheld wages, and non-payment of EPF and SOCSO contributions each constituted a fundamental breach. The High Court added that Wong had been placed in “cold storage” with no work assigned.
- The timing of the salary reduction — imposed in the same month Wong challenged his father’s will — made the retaliatory motive impossible to ignore.
- Reinstatement was inappropriate due to the irretrievable breakdown of the family relationship. The remedy shifted to monetary compensation, computed based on an average salary of RM27,500.
- The Federal Court found no novel constitutional or legal question of public importance, and refused leave to appeal.

Practical Significance

A substantial, unilateral reduction in salary — especially when coupled with withheld wages, stopped statutory contributions, and removal of work — can amount to constructive dismissal. Employers who act against an employee shortly after a legal dispute arises should expect their motives to be scrutinised. Defences such as “poor performance” or “business downturn” must be supported by evidence raised at the time, not invented after the fact. Family businesses are not exempt from the Industrial Relations Act: employment rights apply regardless of the shareholding structure or the relationships between the parties.

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